



Patrick W. Henning, Director



Arnold Schwarzenegger
Governor

December 22, 2009
22M: 383:JP:1001

Ms. Dorothy Chen, Administrator
Alameda County Workforce Investment Board
24100 Amador Street, 6th Floor
Hayward, CA 94544-1203

Dear Ms. Chen:

AMERICAN RECOVERY AND REINVESTMENT ACT (ARRA)
SUMMER YOUTH PROGRAM
FINAL MONITORING REPORT
PROGRAM YEAR 2009

This is to inform you of the results of our review for Program Year (PY) 2009 monitoring review of the Alameda County Workforce Investment Board's (ACWIB) ARRA Summer Youth Program (SYP). This review was conducted from August 17, 2009 through August 20, 2009. Our review consisted of interviews with your staff and a review of the following items: expenditures charged to the ARRA SYP, oversight of your subrecipients, and procurement transactions. In addition, we interviewed service provider staff, SYP participants, and worksite supervisors, and focused on the following areas of your ARRA SYP: eligibility determination, program operations, participant worksites, participant payroll processing, and oversight.

Our review was conducted under the authority of Section 667.410(b)(1), (2) & (3) of Title 20 of the Code of Federal Regulations (20 CFR). The purpose of this review was to determine the level of compliance by ACWIB with applicable federal and state laws, regulations, policies, and directives related to the ARRA grant.

We collected the information for this report through interviews with representatives of ACWIB, service provider staff, ARRA SYP worksite supervisors, and ARRA SYP participants. In addition, this report includes the results of our review of sampled case files, ACWIB's response to Section I and II of the ARRA SYP Onsite Monitoring Guide, and a review of applicable policies and procedures for PY 2009.

We received your response to our draft report on November 18, 2009, and reviewed your comments and documentation before finalizing this report. Your response adequately addressed finding 3 cited in the draft report. However, this issue will

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remain open until we verify the implementation of your stated corrective action plan during a future onsite review. Until then, this finding is assigned Corrective Action Tracking System (CATS) number 10044.

BACKGROUND

The ACWIB allocated all of its \$2,147,775 ARRA youth allocation to serve 684 SYP participants in 2009. As of September 8, 2009, ACWIB expended \$2,125,609 to serve 743 SYP participants.

ARRA SYP REVIEW RESULTS

While we conclude that, overall, the ACWIB is meeting applicable ARRA requirements, we noted instances of noncompliance in the following areas: work permits, eligibility, services provided before eligibility, and prohibited activities. The findings that we identified in these areas, our recommendations, and the ACWIB proposed resolution of the findings are specified below.

FINDING 1

Requirement: California Education Code Section 49160 states, in part, that no person, firm or corporation shall employ, suffer, or permit any minor under the age of 18 years to work in or in connection with any establishment or occupation, except as provided in Section 49151, without a permit to employ, issued by the proper educational officers in accordance with law.

California Labor Code Section 1299 states, in part, that every person, or agent or officer thereof, employing minors, either directly or indirectly through third persons, shall keep on file all permits and certificates, either to work or to employ.

Observation: Of the 13 case files reviewed for ACWIB, we observed eight instances in which the participant files were missing work permits.

Subsequent to our on-site review, ACWIB provided documentation (copies of work permits) to substantiate that the youth participants were lawfully employed.

We consider this issue resolved.

FINDING 2**Requirement:**

20 CFR 664.200 states, in part, that an eligible youth is an individual who is age 14 through 21, is a low income individual, and is within one or more of the following categories: deficient in basic literacy skills; school dropout; homeless, runaway, or foster child; pregnant or parenting; offender; or is an individual (including a youth with a disability) who requires additional assistance to complete an educational program, or to secure and hold employment.

WIA Directive 04-18, which transmits Title I Eligibility Technical Assistance Guide (TAG), provides guidelines for documenting general and youth eligibility. The TAG requires the use of acceptable documentation and it includes the economic eligibility criteria and additional requirements for youth. The latter refers to barriers, at least one of which a youth must have, in order to be determined eligible for WIA services, in addition to meeting the economic eligibility criteria (unless they are to be served through the five-percent exception window).

Although local areas have the flexibility and discretion to design documentation and verification systems, One-Stop operators, their subrecipients, and applicants must make reasonable efforts to document eligibility for WIA-funded programs. *The use of applicant statements may be prudently used to document those items that are not verifiable or are unreasonably difficult for the applicant to obtain [emphasis added].* However, an applicant statement is not considered a primary documentation source.

Observation:

Of the 13 case files reviewed for ACWIB, we observed 11 instances in which the participant files were missing acceptable documentation to substantiate that the participants were eligible for services.

The ACWIB's youth service providers used applicant statement forms in every case to substantiate that the participants met either the low-income requirement and/or the barrier in all instances. The case files show that no effort was made by ACWIB's youth service providers to obtain eligibility documentation prior to accepting applicant statements.

Subsequent to our on-site review, ACWIB provided an explanation that the eligibility documents were located in other files. They also provided documentation (screen prints from the County of Alameda, CalWIN system, corroborated applicant statements for homelessness) to substantiate the low-income status and barriers of all 11 participants.

We consider this issue resolved.

FINDING 3

Requirement:

WIA Section 129(a)(1) states, in part, that the use of funds for youth activities may be used to provide effective and comprehensive activities to eligible youth seeking assistance.

WIA Section 129(c)(2)(D) states, in part, that youth programs shall provide elements consisting of paid and unpaid work experiences.

29 CFR 664.470 states, in part, that funds under the WIA may be used to pay wages and related benefits for work experiences in the public, private, for profit or non-profit sectors where the objective assessment and individual service strategy indicate that work experiences are appropriate.

20 CFR 664.215(a-b) states, in part, that all youth participants must be registered and that registration is the process of collecting information to support a determination of eligibility.

WIAD04-17 transmits the WIA JTA System Client Forms Handbook. It requires, in part, that once an individual seeks more than minimal assistance from staff, eligibility must be determined and the Enrollment/Registration form must be completed to enroll the client into an activity. The enrollment date is the point from which the information used in performance measures begins to be collected.

29 CFR 97.22(a)(1) states, in part, that grant funds may be used only for the allowable costs of the subgrantees.

OMB Circular A-87 Attachment A(C) states, in part, that for a cost to be allowable under an award, the cost must be

necessary and reasonable and must be adequately documented.

Observation:

Of the 13 case files reviewed for ACWIB, we observed one instance where a youth applicant was provided services prior to enrollment. Specifically, a 20 year-old applicant was placed in a work experience activity on June 22, 2009 prior to the application and enrollment dates of July 21, 2009. Time cards and payroll sheets in the case file indicate that the applicant completed and was paid for 106 work experience hours at \$9.00 per hour for a total of \$954 in wages prior to enrollment into the ARRA program. As a result, ACWIB used ARRA funds to pay wages to a non-ARRA participant for a period of 106 hours.

Recommendation:

We recommended that ACWIB provide documentation to demonstrate that the costs for the above individual are backed out of the ARRA account and charged to a non-federal funding source. The amount should include the work experience wages totaling \$954 and any other WIA or ARRA costs incurred by the individual.

ACWIB Response:

The ACWIB stated that they met with ACAP staff to discuss this issue and determined that the worksite Rising Sun did not supplant employment for the individual. They also agreed with the State that the worksite agreement between ACAP and Rising Sun began on June 22, 2009 and that the individual was determined eligible on July 21, 2009. They further agreed that the individual worked 106 hours prior to eligibility determination into WIA/ARRA SYP.

The ACWIB stated that the \$954 in wages paid to this individual prior to July 21, 2009 were not part of the total ACAP has billed, or will bill, for WIA/ARRA SYP. The ACWIB submitted a letter from Nanette Dillard, the Executive Director of ACAP, dated November 16, 2009, which stated that the \$954 in wages paid to this individual prior to July 21, 2009 were paid from a grant from County Supervisor Nate Miley.

In addition, ACWIB stated that their fiscal staff will review ACAP's invoices and journal entries to ensure that the \$954 in wages paid to this individual is not charged to WIA/ARRA SYP.

State Conclusion: The ACWIB's stated corrective action should be sufficient to resolve this issue. However, we cannot close this issue until we receive documentation to substantiate that the \$954 in wages paid to the individual listed above was not charged to WIA/ARRA SYP. Until then, this issue remains open and has been assigned CATS number 10044.

FINDING 4

Requirement: 29 CFR 570.61 states, in part, that the occupations in the operation of power-driven meat-processing machines are particularly hazardous for the employment of minors between 16 and 18 years of age. This includes operation or feeding of machines which slice meat, poultry, seafood, bread, vegetables, or cheese.

California Child Labor Laws (2000), in part, restrict and prohibit certain occupations that minors may engage in. Specifically, minors under 18 years old may not be employed or permitted to work in occupations declared hazardous in federal regulation and adopted by inclusion by the state of California. These occupations include operation of power-drive meat-processing machines.

Observation: We observed that a participant at one of the four worksites we visited was engaged in a prohibited occupation. During an onsite interview, a worksite supervisor stated that a 17 year-old participant operated a meat-slicing machine.

Subsequent to our review, ACWIB submitted documentation (letters to the youth service provider and worksite) to ensure that the participant would immediately stop this activity.

In addition, ACWIB's youth service provider made an immediate on-site visit to the worksite to instruct the worksite supervisor that, effective immediately, no ARRA participants would engage in prohibited activities.

We consider this issue resolved.

Due to the short period of time the 2009 SYP is in operation the above corrective actions were requested in the exit conference in order that corrective action can be taken immediately. Thank you for the timely action taken on specific issues identified above. We are providing you up to 10 working days after receipt of this

report to submit to the Compliance Review Office your response to this report. Because we faxed a copy of this report to your office on the date indicated above, we request your response no later than January 7, 2010. If we do not receive a response by this date, we will release this report as the final report. Please submit your response to the following address:

Compliance Monitoring Section
Compliance Review Office
722 Capitol Mall, MIC 22M
P.O. Box 826880
Sacramento, CA 94280-0001

In addition to mailing your response, you may also FAX it to the Compliance Monitoring Section at (916) 654-6096.

Because the methodology for our monitoring review included sample testing, this report is not a comprehensive assessment of all the areas included in our review. It is ACWIB's responsibility to ensure that its systems, programs, and related activities comply with the ARRA grant program, Federal and State regulations, and applicable State directives. Therefore, any deficiencies identified in subsequent reviews, such as an audit, would remain ACWIB's responsibility.

Please extend our appreciation to your staff for their cooperation and assistance during our review. If you have any questions regarding this report or the review that was conducted, please contact me at (916) 654-1292.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessie Mar".

JESSIE MAR, Chief
Compliance Monitoring Section
Compliance Review Office

cc: Linda Palmquist, MIC 50
Jose Luis Marquez, MIC 50
Dathan O. Moore, MIC 50
Daniel Patterson, MIC 45